

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1017
93RD GENERAL ASSEMBLY

Reported from the Committee on Agriculture Policy April 18, 2006 with recommendation that House Committee Substitute for Senate Bill No. 1017 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

5039L.02C

AN ACT

To repeal sections 196.931, 196.949, and 196.951, RSMo, and to enact in lieu thereof five new sections relating to agricultural programs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 196.931, 196.949, and 196.951, RSMo, are repealed and five new
2 sections enacted in lieu thereof, to be known as sections 196.931, 196.949, 196.951, 348.500,
3 and 348.505, to read as follows:

196.931. As used in sections 196.931 to 196.953 unless the context clearly indicates
2 otherwise, the following words and terms shall have the meaning indicated:

3 (1) "Grade A pasteurized milk", grade A raw milk for pasteurization which has been
4 pasteurized, cooled, and placed in the final container in a milk plant and conforming with the
5 sanitation and bacteriological standards authorized by sections 196.931 to 196.953 and
6 regulations promulgated thereunder;

7 (2) "Grade A raw milk for pasteurization", raw milk for pasteurization from producer
8 dairies and conforming with all of the sanitation and bacteriological standards authorized by
9 sections 196.931 to 196.953 and regulations which are promulgated thereunder;

10 (3) "Graded fluid milk and fluid milk products", milk products include cream, light
11 cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy
12 whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table
13 cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 reconstituted or recombined milk and milk products, concentrated milk, concentrated milk
15 products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products, vitamin D
16 milk and milk products, homogenized milk, flavored milk or milk products, eggnog, eggnog
17 flavored milk, eggnog flavored lowfat milk, buttermilk, cultured buttermilk, cultured milk,
18 cultured whole milk buttermilk, and acidified milk and milk products, and other fluid milk and
19 fluid milk products so declared by the board which are sold, offered for sale, exposed for sale,
20 delivered or advertised as graded milk and milk products;

21 (4) "Manufacturing raw milk", milk that does not meet the requirements of grade A raw
22 milk for pasteurization as defined in sections 196.931 to 196.959;

23 (5) "Milk plant", any place, premises or establishment where graded fluid milk or fluid
24 milk products are collected, handled, processed, stored, bottled, pasteurized and prepared for
25 distribution, except an establishment where graded fluid milk products are sold at retail as
26 purchased from a milk plant;

27 (6) "Milk plant operator", any person, firm, corporation or association operating any milk
28 plant;

29 (7) "Milk producer", any person who operates a dairy farm and provides, sells, or offers
30 milk for sale to a milk plant, receiving station, or transfer station;

31 (8) "Official rating agency", the state [department of health and senior services] **milk**
32 **board**;

33 (9) "Official rating survey", the survey conducted by the official state rating agency, as
34 required by sections 196.931 to 196.953;

35 (10) "Person" shall mean an individual or individuals, or a firm, partnership, company,
36 corporation, trustee, or association;

37 (11) "Political subdivision", any municipality, city, incorporated town, village, county,
38 township, district or authority, or any portion or combination of two or more thereof;

39 (12) "State department of agriculture", the department of agriculture of Missouri;

40 (13) "State department of health and senior services", the department of health and senior
41 services of Missouri;

42 (14) "State milk board", an appointed state agency functioning as administrator of "state
43 milk inspection"; and

44 (15) "State milk inspection", the services of inspection, regulation, grading, and program
45 evaluation of fluid milk and fluid milk products by agents, representatives or employees of the
46 state milk board under the terms and provisions of sections 196.931 to 196.959 and regulations
47 adopted to regulate the production, transportation, processing, manufacture, distribution and sale
48 of graded fluid milk and fluid milk products.

196.949. Graded fluid milk or fluid milk products not inspected under state milk inspection may be sold, offered for sale, exposed for sale, and delivered in the state of Missouri, or any municipality thereof, if approved [jointly] by the [director of the department of agriculture and the director of the department of health and senior services] **state milk board** as provided for by regulations adopted [jointly] by the [two agencies and the] state milk board; provided that, the graded fluid milk or fluid milk products from other states shall be produced and processed under the supervision of a duly authorized governmental agency operating under the provisions of an ordinance, statute, or regulation substantially equivalent to the regulations promulgated and adopted by the state milk board and enforced with equal effectiveness as determined by an official rating survey, and products meet applicable temperature, bacteriological and composition standards when sampled on arrival at point of retail sale. Nothing in this section shall prohibit the state or local health officer from satisfying himself **or herself** that the governmental agency having jurisdiction over the production and processing is properly enforcing such provisions.

196.951. The [department of health and senior services] **state milk board** is hereby designated as the official rating agency. At least [annually] **biannually**, or as often as necessary, the [department of health and senior services] **state milk board** shall make an official rating survey to determine if there is appropriate and effective enforcement of the standards and provisions of sections 196.931 through 196.953 and such other surveys as may be necessary to assure enforcement of sections 196.931 through 196.953 throughout the state. Unsatisfactory conditions shall be deemed to exist when a rating below the minimum acceptable rating established by the [director of the department of agriculture and the director of the department of health and senior services] **state milk board** is found by the official rating survey. Violation of sections 196.931 through 196.953 shall be deemed to exist when the unsatisfactory conditions causing the rating to fall below the minimum acceptable rating are not corrected within ninety days. The minimum acceptable rating shall be ninety percent for the pasteurized milk supply as determined by rating methods recognized by the United States Public Health Service Food and Drug Administration. The [director of the department of agriculture and the director of the department of health and senior services] **state milk board** shall [jointly] promulgate and adopt a single method of making official rating surveys of all milksheds. Official surveys shall be made by a method substantially equivalent to procedures outlined in United States Governmental Printing Office Publication Number 678, titled "Methods of Making Sanitation Ratings of Milksheds".

348.500. 1. This section shall be known and may be cited as the "Family Farms Act".

2. As used in this section, "small farmer" means a farmer who is a Missouri resident and who has less than two hundred fifty thousand dollars in gross sales per year.

3. The agricultural and small business development authority shall establish a family farm breeding livestock loan program for small farmers for the purchase of beef cattle, dairy cattle, sheep and goats, and swine only.

4. To participate in the loan program, a small farmer shall first obtain approval for a family farm livestock loan from a lender as defined in section 348.015. Each small farmer shall be eligible for only one family farm livestock loan per family and for only one type of livestock.

5. The maximum amount of the family farm livestock loan for each type of livestock shall be as follows:

(1) Seventy-five thousand dollars for beef cattle;

(2) Seventy-five thousand dollars for dairy cattle;

(3) Thirty-five thousand dollars for swine; and

(4) Thirty thousand dollars for sheep and goats.

6. Eligible borrowers under the program:

(1) Shall use the proceeds of the family farm loan to acquire breeding livestock;

(2) Shall not finance more than ninety percent of the anticipated cost of the purchase of such livestock through the family farm livestock loan; and

(3) Shall not be charged interest by the lender, as defined in section 348.015, for the first year of the qualified family farm livestock loan.

7. Upon approval of the family farm livestock loan by a lender under subsection 4 of this section, the loan shall be submitted for approval by the agriculture and small business development authority. The authority shall promulgate rules establishing eligibility under this section, taking into consideration:

(1) The eligible borrower's ability to repay the family farm livestock loan;

(2) The general economic conditions of the area in which the farm is located;

(3) The prospect of a financial return for the small farmer for the type of livestock for which the family farm livestock loan is sought; and

(4) Such other factors as the authority may establish.

8. For eligible borrowers participating in the program, the authority shall be responsible for reviewing the purchase price of any livestock to be purchased by an eligible borrower under the program to determine whether the price to be paid is appropriate for the type of livestock purchased. The authority may impose a one-time loan review fee of one percent which shall be collected by the lender at the time of the loan and paid to the authority.

9. Nothing in this section shall preclude a small farmer from participating in any other agricultural program.

41 **10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
42 **that is created under the authority delegated in this section shall become effective only if**
43 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
44 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
45 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
46 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
47 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
48 **adopted after August 28, 2006, shall be invalid and void.**

348.505. 1. As used in this section, "state tax liability", any state tax liability
2 **incurred by a taxpayer under the provisions of chapters 143, 147, and 148, RSMo,**
3 **exclusive of the provisions relating to the withholding of tax as provided for in sections**
4 **143.191 to 143.265, RSMo, and related provisions.**

5 **2. Any eligible lender under the family farm livestock loan program under section**
6 **348.500 shall be entitled to receive a tax credit equal to one hundred percent of the amount**
7 **of interest waived by the lender under section 348.500 on a qualifying loan for the first year**
8 **of the loan only. The tax credit shall be evidenced by a tax credit certificate issued by the**
9 **agriculture and small business development authority and may be used to satisfy the state**
10 **tax liability of the owner of such certificate that becomes due in the tax year in which the**
11 **interest on a qualified loan is waived by the lender under section 348.500. No lender may**
12 **receive a tax credit under this section unless such person presents a tax credit certificate**
13 **to the department of revenue for payment of such state tax liability.**

14 **3. The agriculture and small business development authority shall be responsible**
15 **for the administration and issuance of the certificate of tax credits authorized by this**
16 **section. The authority shall issue a certificate of tax credit at the request of any lender.**
17 **Each request shall include a true copy of the loan documents, the name of the lender who**
18 **is to receive a certificate of tax credit, the type of state tax liability against which the tax**
19 **credit is to be used, and the amount of the certificate of tax credit to be issued to the lender**
20 **based on the interest waived by the lender under section 348.500 on the loan for the first**
21 **year.**

22 **4. The Missouri department of revenue shall accept a certificate of tax credit in lieu**
23 **of other payment in such amount as is equal to the lesser of the amount of the tax or the**
24 **remaining unused amount of the credit as indicated on the certificate of tax credit, and**
25 **shall indicate on the certificate of tax credit the amount of tax thereby paid and the date**
26 **of such payment.**

27 **5. The following provisions shall apply to tax credits authorized under this section:**

28 (1) Tax credits claimed in a taxable year may be claimed on a quarterly basis and
29 applied to the estimated quarterly tax of the lender;

30 (2) Any amount of tax credit which exceeds the tax due, including any estimated
31 quarterly taxes paid by the lender under subdivision (1) of this subsection which results
32 in an overpayment of taxes for a taxable year, shall not be refunded but may be carried
33 over to any subsequent taxable year, not to exceed a total of three years for which a tax
34 credit may be taken for a qualified family farm livestock loan;

35 (3) Notwithstanding any provision of law to the contrary, a lender may assign,
36 transfer or sell tax credits authorized under this section, with the new owner of the tax
37 credit receiving the same rights in the tax credit as the lender. For any tax credits assigned,
38 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed by the
39 lender with the authority specifying the name and address of the new owner of the tax
40 credit and the value of such tax credit; and

41 (4) Notwithstanding any other provision of this section to the contrary, any
42 commercial bank may use tax credits created under this section as provided in section
43 148.064, RSMo, and receive a net tax credit against taxes actually paid in the amount of
44 the first year's interest on loans made under this section. If such first year tax credits
45 reduce taxes due as provided in section 148.064, RSMo, to zero, the remaining tax credits
46 may be carried over as otherwise provided in this section and utilized as provided in
47 section 148.064, RSMo, in subsequent years.

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